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GALLAND, KHARASCH, GREENBERG, FELLMAN & SWIRSKY, P.C.

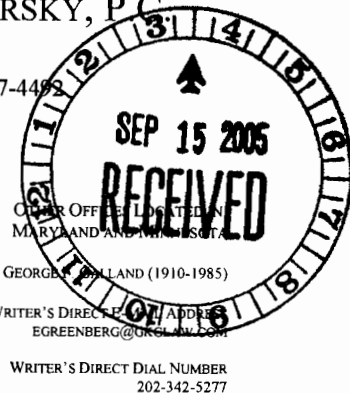
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September 15, 2005

VIA HAND DELIVERY

Troy Brady
Surface Transportation Board
Case Control Unit
1925 K Street, NW
Washington, D.C. 20423

Re: STB Docket No. AB-254 (Sub-No. 8X) Providence and Worcester Railroad
Company – Abandonment Exemption in Providence County, RI

Dear Mr. Brady:

In accordance with the decision in this docket served July 6, 2005, the Providence and Worcester Railroad Company ("P&W") is submitting its comments in response to the Environmental Assessment ("EA") that was served in this matter on August 15, 2005. P&W supports the conclusion set forth in the EA that the abandonment of the line will not significantly affect the quality of the human environment. P&W also agrees that such action would have no more significant effect on either the environment or energy consumption than would be the case in the event the abandonment was denied in lieu of requiring one of the other alternatives (such as no change in operations, discontinuance of service without abandonment, and/or continued operation by another operator). Nevertheless, P&W does wish briefly to address the mitigating conditions recommended in the EA (at p. 7).

First, the EA recommends that a condition be imposed on any decision granting abandonment authority that would prohibit P&W from salvaging or disposing of the right-of-way until consultation with the National Park Service, Northeast Regional Office ("NPS") has been completed. P&W has consulted and fully informed NPS of its proposed plans to salvage the relevant property and convey same to the state of Rhode Island, acting through its Department of Transportation ("RIDOT"). In that regard, once the EA was served, and in addition to the earlier notifications of its intent to file the petition for exemption, P&W's counsel contacted Ms. Roseanne Ruffo in the Executive Director's Office of the NPS in Philadelphia explaining what action was being contemplated. That same day, P&W faxed another copy of its letter of June __, 2005 addressing this issue and requested a reply. And, despite several follow up phone calls

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with Ms. Ruffo and a Ms. Helen Mahan, P&W has received no response from the NPS. If and when NPS does respond, with respect to its views on the subject, P&W will properly transmit such information to the Board.

Second, similarly, P&W has done what it can to consult with the Rhode Island Department of Environmental Management, Office of Water Resources ("DEM-WR") concerning its proposed salvage activities. For example, on September 6, 2005, P&W contacted Mr. Russ Chateaufneuf, and was referred to a Ms. Alicia Goode. On September 8, 2005, P&W again contacted Ms. Goode who indicated that she would see whether DEM-WR would be able to respond to P&W's original letter of May 18, 2005. To facilitate that, P&W faxed another copy of the May 18, 2005 letter, together with a map and the front page of the abandonment petition for reference. Despite several follow up phone calls, P&W has not received any response from that office. If and when P&W does receive such comments, it will promptly relay such information to the Board.

Third, the EA recommended that P&W consult with the state of Rhode Island and Providence Plantations, Coastal Resources Management Council ("CRMC") to determine whether any consistency certification was required. In consulting with that agency, the CRMC responded that P&W would not need to obtain a permit to conduct the planned salvage activities if RIDOT had a permit for that work; in that case, a separate consistency certification would not be required. (See Attachment 1, which is the letter dated September 14, 2005 from Grover Fugate, the Executive Director of CRMC to Amy Silverstein of the P&W.) As CRMC has issued the appropriate Assent for this work and permit to RIDOT (see Attachment 2), it would appear that no separate consistency certification should be required.

Accordingly, as P&W has already complied with the third mitigating condition recommended in the EA and has fully consulted with and provided all relevant information to NPS and DEM-WR, as recommended in the first and second mitigating conditions, P&W believes that it has already taken all action possible under the circumstances to satisfy the recommended mitigating conditions in the EA. P&W therefore believes that there is no need for the Board to impose any of these recommended conditions on the grant of the requested petition for exemption.

Respectfully Submitted,



Edward D. Greenberg
Attorneys for Providence and Worcester
Railroad Company

Enclosures

Sep 14 2005 16:01

P.02



**State of Rhode Island and Providence Plantations
COASTAL RESOURCES MANAGEMENT COUNCIL**

Oliver Stedman Government Center
4808 Tower Hill Road
Wakefield, RI 02879
(401) 783-3370

Michael M. Tikoian
Chairman

Grover J. Fugate
Executive Director

September 14, 2005

Amy Silverstein
Assistant General Counsel
Providence and Worcester Railroad Co.
75 Hammond Street
PO Box 16551
Worcester, MA 01610

RE: Providence and Worcester Railroad Co., Proposed Abandonment.

Dear Ms. Silverstein:

As represented in your letter of September 7, 2005, and as we discussed, since the Department of Transportation is in possession of an assent for the same work that would be performed as part of the rail abandonment, a separate permit is not be needed by Providence and Worcester Railroad. Thus, DOT's permit would constitute your federal consistency for this project.

Sincerely,

Grover J. Fugate, Executive Director
Coastal Resources Management Council

/lam



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

COASTAL RESOURCES MANAGEMENT COUNCIL

Oliver H. Stedman Government Center
4808 Tower Hill Road, Suite 3
Wakfield, R.I. 02879-1900

(401) 783-3370
FAX: (401) 783-3767

ASSENT

CRMC File No.: 2004-12-066

CRMC Assent No.: B2004-12-066

Whereas,
of

RI Department of Transportation
Two Capitol Hill, Room 371
Providence, RI 02904

has applied to the Coastal Resources Management Council for assent to: reconnect Warren Avenue with Bold Point Park. Approximately 2,000 feet of new road will be constructed. The existing Pier Road bituminous pavement will be removed and the area presently occupied by Pier Road will be graded, loamed and seeded. The existing Warren Avenue will be extended approximately 200 feet to the west to connect the new road. A portion of an existing retaining wall will be demolished to accommodate this connection. At the southwest end of the new road, a realigned 200-foot driveway connection to Bold Point Park will also be constructed. Existing pavement in that area will be removed and the existing gravel driveway will be replaced. A new storm water drainage system will be installed. There is a high point at about the middle of the new road. Runoff from west of this point will be collected by a network of catch basins and piped to a water quality structure adjacent to the Bold Point Park access, then discharged into a proposed new outfall adjacent to an existing paved waterway. Runoff from east of the high point will be collected by a network of catch basins and piped to two water quality structures located at the southwest and northeast corners of the WAC/Mauran Avenue intersection. The discharge from the water quality structures will then be conveyed to the existing 24-inch brick storm drain in Mauran Avenue, which outfalls into the Seekonk River. The project includes approx. 430 l.f. of riprap revetment (added post-Feb. 28, 2005 meeting with RIDOT) along the southern portion of the proposal (Sta. 735+00 to Sta. 739+50), where the proposed road encroaches within the 50 foot setback area, and represents that They are the owners of the riparian rights attached to the property involved and submitted plans of the work to be done.

Now, said Council, having fully considered said application in accordance with all the regulations as set forth in the Administrative Procedures Act does hereby authorize said applicant, subject to the provisions of Title 46, Chapter 23 of the General Laws of Rhode Island, 1956, as amended, and all laws which are or may be in force applicable thereto: reconnect Warren Avenue with Bold Point Park. Approximately 2,000 feet of new road will be constructed. The existing Pier Road bituminous pavement will be removed and the area presently occupied by Pier Road will be graded, loamed and seeded. The existing Warren Avenue will be extended approximately 200 feet to the west to connect the new road. A portion of an existing retaining wall will be demolished to accommodate this connection. At the southwest end of the new road, a realigned 200-foot driveway connection to Bold Point Park will also be constructed. Existing pavement in that area will be removed and the existing gravel driveway will be replaced. A new storm water drainage system will be installed. There is a high point at about the middle of the new road. Runoff from west of this point will be collected by a network of catch basins and piped to a water

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August 9, 2005
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quality structure adjacent to the Bold Point Park access then discharged into a proposed new outfall adjacent to an existing paved waterway. Runoff from east of the high point will be collected by a network of catch basins and piped to two water quality structures located at the southwest and northeast corners of the WAC/Mauran Avenue intersection. The discharge from the water quality structures will then be conveyed to the existing 24-inch brick storm drain in Mauran Avenue, which outfalls into the Seekonk River. The project includes approx. 430 l.f. of riprap revetment (added post-Feb. 28, 2005 meeting with RIDOT) along the southern portion of the proposal (Sta. 735+00 to Sta. 739+50), where the proposed road encroaches within the 50 foot setback area; located at plat 16 BLOCK 21, lot 10; Warren Avenue Connector, East Providence, RI, in accordance with said plans submitted to this Council and approved by this Council. All work being permitted must be completed on or before August 9, 2008 after which date this assent is null and void, (unless written application requesting an extension is received by CRMC sixty (60) days prior to expiration date).

Applicant agrees that as a condition to the granting of this assent, members of the Coastal Resources Management Council or its staff shall have access to applicant's property to make on-site inspections to insure compliance with the assent.

Licensee shall be fully and completely liable to State, and shall waive any claims against State for contribution or otherwise, and shall indemnify, defend, and save harmless State and its agencies, employees, officers, directors, and agents with respect to any and all liability, damages (including damages to land, aquatic life, and other natural resources), expenses, causes of action, suits, claims, costs (including testing, auditing, surveying, and investigating costs), fees (including attorneys' fees and costs), penalties (civil and criminal), and response, cleanup, or remediation costs assessed against or imposed upon Licensee, State, or the Property, as a result of Licensee's control of the Property, or Licensee's use, disposal, transportation, generation and/or sale of Hazardous Substances or that of Licensee's employees, agents, assigns, sublicensees, contractors, subcontractors, permittees, or invitees.

Nothing in this assent shall be construed to impair the legal rights of this granting authority or of any person. By this assent the granting authority by no manner, shape, or form assumes any liability or responsibility implied, or in fact, for the stability or permanence of said project; nor by this assent is there any liability implied or in fact assumed or imposed on the granting authority. Further, the granting authority by its representatives or duly authorized agents shall have the right to inspect said project at all times including, but not limited to, the construction, completion, and all times thereafter.

This Assent is granted with the specific proviso that the construction authorized therein will be maintained in good condition by the owner thereof, his heirs, successors, or assigns for a period of fifty (50) years from the date thereof, after which time this permission shall terminate necessitating either complete removal or a new application.

Permits issued by the CRMC are issued for a finite period of time, confer no property rights, and are valid only with the conditions and stipulations under which they are granted. Permits imply no guarantee of renewal, and may be subject to denial, revocation, or modification.

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If this matter appeared before the full Council, a copy of the legal decision from this proceeding may be acquired by contacting the CRMC office in writing.

A copy of this Assent shall be kept on site during construction.

Application for future alteration of the shoreline or other construction or alteration within the CRMC jurisdiction shall be submitted to the CRMC for review prior to commencing such activity.

All applicable policies, prohibitions, and standards of the RICRMP shall be upheld.

All local, state or federal ordinances and regulations must be complied with.

Please be advised that as a further conditions of this Assent, it is hereby stipulated that you and/or your agents shall comply at all times with Federal and State Water Quality Standards and other State standards and regulations regarding water quality, and shall exercise such supervision over and control of these facilities to prevent the dumping or discarding or refuse, sanitary wastes and other pollutants in the tidal waters, either from vessels docked at said facilities or from land adjacent thereto.

No work that involves alteration to wetlands or waters of the United States shall be done under this Assent until the required Federal Permit has been obtained.

Non-compliance with this assent shall result in legal action and/or revocation of this permit.

CAUTION:

The limits of authorized work shall be only for that which was approved by the CRMC. Any activities or alterations in which deviate from the approved plans will require a separate application and review. If the information provided to the CRMC for this review is inaccurate or did not reveal all necessary information or data, then this permit may be found to be null and void. Plans for any future alteration of the shoreline or construction or alteration within the 200' zone of CRMC jurisdiction or in coastal waters must be submitted for review to the CRMC prior to commencing such activity.

Permits, licenses or easements issued by the Council are valid only with the conditions and stipulation under which they are granted and imply no guarantee of renewal. The initial application or an application for renewal may be subject to denial or modification. If an application is granted, said permit, license and easement may be subject to revocation and/or modification for failure to comply with the conditions and stipulations under which the same was issued or for other good cause.

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ATTENTION: ALL STRUCTURES AND FILLED AREAS IN THE TIDAL, COASTAL, OR NAVIGABLE WATERS OF THE STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS ARE SUBJECT TO:

1. The Superior Property Rights of the State of Rhode Island and Providence Plantations in the Submerged and Submersible Lands of the Coastal, Tidal, and Navigable Waters;
2. The Superior Navigation Servitude of the United States;
3. The Police Powers of the State of Rhode Island and the United States to regulate Structures in the Tidal, Coastal, or Navigable Waters.

THE SUBMERGED AND SUBMERSIBLE LANDS OF THE TIDAL, COASTAL, AND NAVIGABLE WATERS OF THE STATE ARE OWNED BY THE STATE AND HELD IN TRUST FOR THE PUBLIC. CONVEYANCE OF THESE LANDS IS ILLEGAL; TITLES PURPORTING TO TRANSFER SUCH LANDS ARE VOID. ASSENTS THAT INVOLVE THE FILLING OR USE OF THE STATES SUBMERGED LANDS ARE GRANTED WITH THE PROVISIO THAT IT IS SUBJECT TO THE IMPOSITION OF A USAGE FEE TO BE ESTABLISHED BY THE COASTAL RESOURCES MANAGEMENT COUNCIL.

SPECIFIC STIPULATIONS OF APPROVAL

General Stipulations

- A. The applicant shall record this assent in its entirety in the land evidence records of the City of East Providence within thirty (30) days of the date of assent issuance. Certification by the Town Clerk's office that this stipulation has been complied with shall be furnished to Coastal Resources Management Council by the applicant within fifteen (15) days thereafter. Failure to comply with provision will render this assent null and void.
- B. For the purpose of this permit, the coastal feature shall be the coastal beach, coastal wetland and coastal bluff/scarp; and the inland edge of the coastal feature shall be the top of the coastal bluff scarp.
- C. The approved plan set shall be those plans entitled "Warren Avenue Connector, Contract No. 7..."; in 36 sheets, stamped by S.J. Baker PE (signed 07/28/05). Prior to initiation of construction, a PE stamped plan/specification of the riprap revetment shall be submitted to CRMC for written approval.
- D. The RIDOT shall obtain a written agreement from the City of East Providence to remove pavement associated with the Pier Road right-of-way and for the subsequent establishment of the proposed public access pathway and for any plantings or shoreline protection (riprap revetment) which may occur upon City property associated with the Pier Road right-of-way. The written agreement shall specify through an appropriate easement ("greenway easement") that the public access pathway and associated shoreline buffer plantings shall be maintained as a shoreline greenway in perpetuity. The

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greenway shall be detailed upon a plan for CRMC approval. The written agreement shall further include a management plan for the greenway. The written agreement, greenway plan, and associated easements shall be provided to the CRMC for approval prior to issuance of the CRMC Assent.

E. The RIDOT shall either construct the proposed riprap revetment shown on the submitted plan with prior written landowner authorization or shall develop a plan to fund construct of the revetment. Either option will require CRMC approval prior to the initiation of the project. Any plan to fund construction will require an appropriate funding mechanism, prior written landowner authorization and the establishment of a construction schedule which will assure revetment construction is completed prior to the completion of the roadway contract. Any and all required authorizations from affected landowners must be provided in written form prior to the issuance of the CRMC Assent.

F. The Landscape Plans for the area within the 50' setback shall be revised to include additional native plantings. This shall include: 1. Shrub plantings along the entire roadway fill slope (toe to mid-slope suggested). 2. Shrub plantings along the inland edge of the proposed riprap revetment. 3. Tree Plantings along the public access pathway. In addition, an appropriate soil stabilization seed mix shall be specified for the area. A low maintenance seed mix shall be selected which requires minimal fertilization and waters. The final landscape plan may be developed through discussions with CRMC Staff and the City of East Providence. However, a final landscape plan must be provided for CRMC Staff approval prior to issuance of the CRMC Assent.

G. No alterations are allowed on the coastal beach, coastal wetland or in the waterway adjacent to the site.

Earthwork Stipulations

A. The approved soil erosion and sediment control plans shall be those specified within the plans approved herein. However, haybales shall not be placed below MHW (as shown on the plans). Any and all erosion and sediment controls needed on the immediate shoreline shall be designed for inundation/flow and coordinated with CRMC Staff.

B. Prior to initiation of any grading, construction, or earthwork activity, all necessary and appropriate erosion and sedimentation controls shall be placed along the downslope perimeter of the proposed area of construction as shown on the approved site plans. Bales and/or silt fence shall be "toed in" 4 inches to prevent the underwash of sediments. This line shall be maintained by the replacement of bales as needed and by the proper upland disposal of accumulated sediments until permanent site revegetation is established. No soils nor any other materials shall be allowed to enter beyond this line, neither temporarily nor permanently.

C. Upon successful stabilization of exposed soils all haybales and stakes shall be removed from site and disposed of at a suitable, legal upland location.

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D. There shall be no stockpiling or disposal of soils, construction materials, debris, etc., on the coastal feature, within 50 feet of the inland edge of the coastal feature, in coastal waters, or in any areas designated as a CRMC setback or coastal buffer zone.

E. All excess excavated materials, excess soils, excess construction materials, and debris shall be removed from the site and disposed of at an inland landfill or a suitable and legal upland location outside of CRMC jurisdiction. No materials shall be deposited on the coastal feature, within 200 feet of the inland edge of the coastal feature, in coastal waters, or in any areas designated as a CRMC setback or coastal buffer zone.

F. All fill materials shall be clean, free of debris and rubble, and free of materials which may cause pollution of surface waters or groundwater.

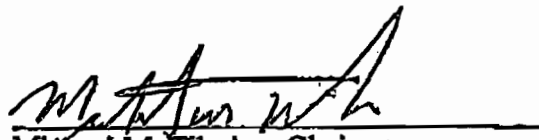
G. All areas of exposed soil which are disturbed by construction and related activities shall be revegetated as immediately as is physically possible so as to minimize erosion and sedimentation. If the season is not conducive to immediate revegetation, all exposed soils shall be temporarily stabilized with hay mulch, jute mat netting or similar erosion control materials. Soil stabilization methods shall be employed during, as well as after, the construction phase to the maximum extent possible.

H. There shall be no discharge or disposal of hazardous wastes or hazardous materials which may be associated with construction machinery, etc. on the site or in the waterway. All used oil, lubricants, construction chemicals, etc. shall be disposed of in full compliance with applicable State and Federal regulations.

I. The drainage systems shall be maintained in strict conformance with "Drainage Notes" per Page 21 of the approved plan set.

In Witness Whereof, said Coastal Resources Management Council have hereto set their hands and seal this ninth day of August in the year two-thousand-five.


Grover J. Fugate, Executive Director
Coastal Resources Management Council


Michael M. Tikoian, Chairman
Coastal Resources Management Council

/pjc :

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State of Rhode Island and Providence Plantations

COASTAL RESOURCES MANAGEMENT COUNCIL

NOTICE OF

ASSENT

CRMC Assent No.: B2004-12-066

Date: August 9, 2005

This certifies that RI Department of Transportation

has permission to Reconnect Warren Ave with Bold Point Park. Approximately 2,000 feet of new road will be constructed. Pier Rd
bimimous pavement will be removed and the area will be graded, loaned and seeded. Warren Ave will be extended approx. 200 ft to
to connect to the new road. A realigned 200-ft driveway will be construct to connect the new road to Bold Pt. Park. New storm water
drainage system will be installed. The project includes approx. 430 l.f. of riprap revetment along the southern portion of the proposal,
Where the road encroaches within 50 feet setback area.

situated at Warren Avenue ConnectorPlot No. 16 BLOCK 21Lot No. 10

Said construction operations to be done in accordance with an approved assent on file in the Offices of the Coastal Resources
 Management Council and subject further to all the provisions of the building ordinances of the :

City/Town of

East Providence

and to all the applicable State, Local and Federal provisions. This assent shall expire three (3) years from date of issuance.

Dorenda J. Casey
 Official Designee
 Coastal Resources Management Council

**THIS CARD MUST BE DISPLAYED IN A CONSPICUOUS PLACE ON THE PREMISES.
 FAILURE TO DISPLAY WILL RESULT IN LEGAL ACTION.**